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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In Re:	:	Chapter 11
	:	
DELPHI CORPORATION, et al.	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	

**RESPONSE OF THE PORTAGE COUNTY WATER RESOURCES DEPARTMENT TO  
DEBTORS' SEVENTH OMNIBUS OBJECTION (SUBSTANTIVE) PURSUANT TO 11  
U.S.C. §502(B) AND FED. R. BANKR. P. 3007 TO CERTAIN (A) INSUFFICIENTLY  
DOCUMENTED CLAIMS, (B) CLAIMS NOT REFLECTED ON DEBTORS' BOOKS  
AND RECORDS, AND (C) UNTIMELY CLAIMS.**

The Portage County Water Resources Department respectfully submits its response to the Debtors' Seventh Omnibus Objection (Substantive) pursuant to 11 U.S.C. §502(b) and Fed. R. Bankr. P. 3007 to Certain (A) Insufficiently Documented Claims, (B) Claims Not Reflected on Debtors' Books and Records, and (C) Untimely Claims.

**BACKGROUND**

Delphi Automotive Systems, LLC, an affiliate of Delphi Corporation, conducts business in Portage County. It has a 178,418 square foot facility on property located within Rootstown Township in Portage County, Ohio. The Portage County Water Resources Department is the

name given to the county's sanitary engineer department, which is authorized to exist and provide sewage collection services under Ohio Revised Code §6117.01 (hereinafter "Water Resources"). Water Resources has regularly provided sewage collection services to Delphi Automotive Services, LLC for its facility. On October 8, 2005, Delphi Corporation and its affiliates instituted Chapter 11 bankruptcy proceedings. At that time, Delphi's outstanding debt to Water Resources was \$17,547.46.

On January 20, 2006, Delphi Corporation and many of its affiliates filed schedules of existing assets and liabilities pursuant to 11 U.S.C. 521. Delphi Automotive Services, LLC included Water Resources' unpaid sewage collection delinquency in its schedule, listing the delinquency amount at \$17,547.46. While many of the other claims were scheduled as contingent, disputed, and unliquidated, Water Resources' claim did not carry any of these designations.

Water Resources filed a proof of claim form in this matter, which was mailed on August 31, 2006 and ultimately filed with this Court on September 8, 2006. Water Resources concedes that due to an error in its calculation process, the amount presented in its proof of claim form incorrectly lists its claim as \$17,967.88. The correct amount of its claim is the amount listed within the schedule prepared by Delphi Automotive Systems LLC, namely \$17,547.46.

### **LAW AND ARGUMENT**

Fed. R. Bankr. P. 3003 states, in part, as follows:

(a) Applicability of rule

This rule applies in chapter 9 and 11 cases.

(b) Schedule of liabilities and list of equity security holders

(1) Schedule of liabilities

The schedule of liabilities filed pursuant to § 521(1) of the Code shall constitute prima facie evidence of the validity and amount of the claims of creditors, unless they are scheduled as disputed, contingent, or unliquidated. **It shall not be necessary for a creditor or equity security holder to file a proof of claim or interest except as provided in subdivision (c)(2) of this rule.**

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(c) Filing proof of claim

(1) Who may file

Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (c)(3) of this rule.

(2) Who must file

**Any creditor or equity security holder whose claim or interest is not scheduled or scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule;** any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.

(Emphasis added.)

Delphi Automotive Services, LLC did, in fact, schedule Water Resources' claim pursuant to 11 U.S.C. 521(1). Moreover, within its schedule, it did not label Water Resources claim as contingent, disputed, or unliquidated. Therefore, Water Resources did not even need to file a proof of claim form in this matter. Rather, under Fed. R. Bankr. P. 3003(b)(1), the schedule itself evidences the validity of the claim and the amount of the claim.

Admittedly, Water Resources would have been better off not filing a proof of claim form at all in this matter. However, given the fact that it didn't need to do so in the first place, it would be a harsh result for this Court to disallow and expunge this claim, as Delphi seeks. Rather, Water Resources asks that this court disregard its proof of claim form, and instead accept the amount of \$17,547.46, included in the schedule prepared by Delphi Automotive Systems, LLC, as the correct amount of Water Resources' claim, and permit Water Resources to continue

to exercise all the other benefits of an unsecured nonpriority claimholder. This result clearly would not injure Delphi Automotive Systems, LLC, as it probably would not have objected at all to this claim had Water Resources not filed a proof of claim form. But to disallow and expunge the claim would certainly injure Water Resources and produce a highly unfair result.

Respectfully submitted,

VICTOR V. VIGLUICCI  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Response to Debtors' Seventh Omnibus Objection to Claims has been served on the parties listed below on this 7<sup>th</sup> day of February, 2007.

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